IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2087 OF 2002
IN
FIRST APPEAL (ST) NO.16362 OF 2002

ALONGWITH

CIVIL APPLICATION NO.2084 OF 2002
IN
FIRST APPEAL (ST) NO.16499 OF 2002

Konkan Railway Corporation Ltd., ..Applicant

Versus

Shri Sonu Laxman harekar and Ors. ..Respondents

Ms.Kiran Bagalia for the applicants.

Mr.M.M.Vaidya for respondent nos.1 & 2.

Coram : S.B.Mhase &
R.S.Mohite,JJ

Date : 12.10.2004.

PC

1. These Civil applications have been filed by the applicants who are the appellants, challenging the order passed by the Land Reference Court viz. Civil Judge, Senior Division, Ratnagiri, in Land Reference Nos.23/96 and 25/96. The lands have been acquired under a land acquisition proceedings by the applicant-Konkan Railway and therefore, the applicants are the acquiring body. However, in above referred land references, the present applicants Konkan Railway were not made a party

respondent and the Civil Judge, Senior Division, Ratnagiri has decided the matters in the absence of the acquiring body. The said Judgments are dated 3.1.2001 and 5.1.2001. However, when it was tried to be executed the acquiring body became aware that such a decree has been passed and thereafter obtained copy and filed the appeals. However, in filing such appeals, there is delay of 471 days and 469 days. Therefore, these applications for condonation of delays.

2. The learned Advocate for respondents has vehemently opposed for condonation of delays stating that the acquiring body was represented by the State of Maharashtra who has carried out the proceedings for and on behalf of the acquiring body and it was not necessary for the acquiring body to file the appeals. He submitted that the delays have not been properly explained and therefore, the delays may not be condoned.

3. What we have noticed is that in a proceedings under Land Acquisition Act, if the land is acquired by State Government for some of the acquiring body, then the Government itself is under obligation to give a hearing to acquiring body in respect to the market price. The acquiring body is a necessary party under section 18 of the Land Acquisition Act and the original applicants have failed to make

acquiring body as a party in the reference proceedings. It was not a fault of the present applicants/appellants. However, moment they came to know that such a decree is passed by the Civil Judge, they have obtained copies and have filed the present appeals. We find that the time will not run against them unless they are parties to the proceedings and or applicants gets a knowledge of decree therefore, what we find is that immediately after getting a knowledge of the decree, the steps have been taken by the applicants and appeals have been filed. What we find is that there is just and sufficient cause for condonation of delays. Therefore, we are inclined to condone the delays inspite of the objection from the other side.

3. Civil applications are allowed. Delay of 469 days in Civil Application 2087/2002 and 471 days in Civil Application 2084/2002 are hereby condoned. Office is directed to number the Appeals.

(R.S.Mohite,J) **(S.B.Mhase,J)**

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2088 OF 2002
IN
FIRST APPEAL (ST) NO.16362 OF 2002

Konkar Railway Corporation Ltd., ..Applicant
V/s.
Shri Sonu Laxman Harekar ..Respondent

ALONGWITH

CIVIL APPLICATION NO.2085 OF 2002
IN
FIRST APPEAL (ST) NO.16449 OF 2002

Konkan Railway Corporation Ltd., ..Applicant
V/s.
Shri Bhagoji Babu Harekar ..Respondent

Ms.Kiran Bhagalia for the applicants.

Mr.M.M.Vaidya for the respondents.

Coram : S.B.Mhase &
R.S.Mohite,JJ

Date : 12.10.2004.

PC

. In view of appeals being disposed of finally, the applications are disposed of with no order.

(R.S.Mohite,J) **(S.B.Mhase,J)**